



DEPARTMENT OF THE INTERIOR

National Park Service

[NPS-WASO-NAGPRA-11688]

[2200-1100-665]

Native American Graves Protection and Repatriation Review Committee

**Findings Related to the Return of Cultural Items in the Possession of the Alaska State Museum,
Juneau, AK**

AGENCY: National Park Service, Interior.

ACTION: Native American Graves Protection and Repatriation Review Committee: Findings.

This notice is published as part of the National Park Service's administrative responsibilities pursuant to the Native American Graves Protection and Repatriation Act (25 U.S.C. 3006 (g)). The recommendations, findings and actions of the Review Committee associated with this dispute are advisory only and not binding on any person. These advisory findings and recommendations do not necessarily represent the views of the National Park Service or Secretary of the Interior. The National Park Service and the Secretary of the Interior have not taken a position on these matters.

SUMMARY: The Native American Graves Protection and Repatriation Review Committee (Review Committee) was established by Section 8 of the Native American Graves Protection and Repatriation Act (NAGPRA; 25 U.S.C. 3006), and is an advisory body governed by the Federal Advisory Committee Act (5 App. U.S.C. 1-16). At a November 17-19, 2010 public meeting in Washington, DC, and acting

pursuant to its statutory responsibility to convene the parties to a dispute relating to the return of cultural items, and to facilitate the resolution of such a dispute, the Review Committee heard a dispute between the Wrangell Cooperative Association, joined by Sealaska Corporation, and the Alaska State Museum. The issue before the Review Committee was whether, in response to a request for the repatriation of a cultural item in the possession of the Alaska State Museum, the Alaska State Museum presented evidence proving that the Museum has a “right of possession” to the cultural item, as this term is defined in the NAGPRA regulations. The Review Committee found that the Alaska State Museum had not presented evidence proving that the Museum has a “right of possession” to the cultural item. The Review Committee meeting transcript containing the dispute proceedings and Review Committee deliberation and finding is available from the National NAGPRA Program upon request (NAGPRA_Info@nps.gov).

SUPPLEMENTARY INFORMATION: Since 1969, a Tlingit Teeyhíttaan Clan *Yéil aan Kaawu Naas’aaxw*, or Leader of all Raven Clan Hat (Clan Hat), has been in the “possession” of the Alaska State Museum, as this term is defined in the NAGPRA regulations (43 C.F.R. 10.2 (a)(3)(i)). Pursuant to NAGPRA, in 2008, Sealaska Corporation requested the repatriation of the Clan Hat. (On August 13, 2010, the Wrangell Cooperative Association, an Alaska Native village, became a party to the repatriation request.) The request identified the Clan Hat as a “sacred object” and an object of “cultural patrimony,” as these terms are defined in NAGPRA (25 U.S.C. 3001 (3)(C) and (D)). While acknowledging that the Clan Hat is a sacred object and an object of cultural patrimony, the Alaska State Museum asserted the “right of possession” to the Clan Hat, as defined in the NAGPRA regulations (43 C.F.R. 10.10 (a)(2)).

Disputing the Alaska State Museum’s claim of right of possession to the Clan Hat, Sealaska Corporation and the Wrangell Cooperative Association joined in asking the Review Committee to facilitate the resolution of the dispute between themselves and the Alaska State Museum. The Designated Federal Official for the Review Committee agreed to the request.

At its November 17-19, 2010 meeting, the Review Committee considered the dispute. The issue before the Review Committee was whether, in response to the request for the repatriation of the Clan Hat, the Alaska State Museum presented evidence proving, by a preponderance of the evidence, that the Museum has a “right of possession” to the Clan Hat. As defined in the NAGPRA regulations, “‘right of possession’ means possession obtained with the voluntary consent of an individual or group that had authority of alienation.” Right of possession to the Clan Hat, therefore, would be deemed to have been given to the Alaska State Museum if, at the time the Museum acquired possession of the Clan Hat from the Tlingit Teeyhíttaan Clan, the transferor consented to transfer possession, the transferor’s consent was voluntary, and the transferor had the authority to alienate the Clan Hat to the Museum.

FINDINGS OF FACT: Five Review Committee members participated in the fact finding. Two of the Review Committee members were self-recused. By a vote of five to zero, the Review Committee found that the Alaska State Museum had not proved by a preponderance of the evidence that the Museum has the right of possession to the Clan Hat. In addition, the Review Committee made specific findings related to the transferor’s consent to transfer possession of the Clan Hat, the voluntariness of the transferor’s consent, and the authority of the transferor to alienate the Clan Hat to the Alaska State Museum. By a vote of five to zero, the Review Committee found that the Alaska State Museum had proved, more likely than not, that the conveyor of the Clan Hat to the Alaska State Museum had consented to transfer possession of the Clan Hat to the Museum. By a vote of three to one (there was one abstention), the Review Committee found that the Alaska State Museum had not proved, more likely than not, that the consent of the conveyor to transfer possession of the Clan Hat to the Alaska State Museum was voluntary. By a vote of four to zero (there was one abstention), the Review Committee found that the Alaska State Museum had not proved, more likely than not, that the Indian tribe culturally affiliated with the Clan Hat explicitly authorized the conveyor of the Clan Hat to separate the Clan Hat from the tribe. Finally, by a vote of four to zero (there was one abstention), the Review Committee found that the Alaska

State Museum had not proved, more likely than not, that the Indian tribe culturally affiliated with the Clan Hat intended to give the conveyor of the Clan Hat the authority to separate the Clan Hat from the tribe.

Dated: November 7, 2012

Mervin Wright, Jr.,
Acting Chair, Native American Graves Protection and Repatriation Review Committee.

[FR Doc. 2013-01314 Filed 01/23/2013 at 8:45 am; Publication Date: 01/24/2013]